



FILED

10-14-16
04:59 PM

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric)	
Company in its 2015 Nuclear)	Application 16-03-006
Decommissioning Cost Triennial)	(Filed March 1, 2016)
Proceeding)	
)	
)	

ALLIANCE FOR NUCLEAR RESPONSIBILITY'S

OPENING BRIEF

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II. INTRODUCTION.

Pursuant to Rule 13.11 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission” or “CPUC”) and the briefing schedule established by the July 28, 2016 Ruling Modifying Schedule of Administrative Law Judge Darcie L. Houck, the Alliance for Nuclear Responsibility (“A4NR”) files its Opening Brief in the 2015 Nuclear Decommissioning Cost Triennial Proceeding application filed by the Pacific Gas and Electric Company (“PG&E”). A4NR’s motion seeking party status was granted at the June 13, 2016 Prehearing Conference, and A4NR submitted prepared testimony that was admitted into evidence as Exhibit 31 at the September 19, 2016 evidentiary hearing.¹

II. RECORD EVIDENCE.

A4NR’s prepared testimony recommends that the Commission encourage PG&E to examine a pre-shutdown acceleration of dry cask loading of Diablo Canyon spent nuclear fuel in the forthcoming site-specific decommissioning plan that PG&E has agreed to submit for Commission approval pursuant to the Joint Proposal for the Retirement of Diablo Canyon (“Joint Proposal”), to which A4NR is a signatory.² Section 5.4.1 of the Joint Proposal specifies that this site-specific decommissioning study will update PG&E’s 2015 Nuclear Decommissioning Cost Triennial Proceeding (“NDCTP”) forecast and incorporate the costs of “*a plan for expedited post-shut-down transfer of spent fuel to Dry Cask Storage as promptly as is*

¹ Transcript, p. 75.

² Commission review of the Joint Proposal is the subject of A.16-08-006.

technically feasible using the transfer schedules implemented at the San Onofre Nuclear Generating Station as a benchmark for comparison ...”³

PG&E’s application in this proceeding states, *“Since the 2012 NDCTP, PG&E has taken steps to accelerate its transfer of spent fuel from wet to dry storage during Diablo Canyon’s operational period,”⁴* but PG&E projects these measures to result in only one additional cask being loaded prior to shutdown when compared to the estimate in PG&E’s 2012 NDCTP, leaving 70 of 138 canisters to be loaded during the post-shutdown period.⁵ At the Commission’s direction in D.14-12-082, PG&E’s application in this proceeding includes a cost comparison between wet and dry storage costs. PG&E’s testimony acknowledges a \$65.6 million *“difference in annual costs between storing spent fuel in both wet and dry storage and storing spent fuel in dry storage only.”⁶*

As discussed in A4NR’s prepared testimony, reducing the number of fuel assemblies that will remain in the Diablo Canyon spent fuel pools after the final core offloads at license expiry might (or might not, depending upon the composition of the final batches of fuel) reduce the period of time wet storage is required during decommissioning, with attendant cost savings.⁷ A4NR’s prepared testimony identifies additional decommissioning costs contemplated in the Joint Proposal that are not included in PG&E’s projected 2015 NDCTP revenue requirement, i.e., the worker retention payments estimated by PG&E at \$350 million and community impact

³ Exhibit 31, p. 2.

⁴ Exhibit 4, PG&E Prepared Testimony (Loren D. Sharp), p. 3-8, lines 1 – 3.

⁵ Exhibit 31, p. 3, citing PG&E data responses A4NR_001-Q01 and A4NR_001-Q02.

⁶ Exhibit 3, PG&E Prepared Testimony (Francis W. Seymore), p. 2-28, lines 3 – 7.

⁷ Exhibit 31, p. 3.

mitigation payments estimated by PG&E at \$49.5 million.⁸ A4NR's prepared testimony draws the seemingly unremarkable conclusion that, if savings can be achieved through accelerating dry cask loading prior to decommissioning, PG&E's forthcoming site-specific study should evaluate the costs, benefits, and feasibility of doing so.⁹

III. PG&E's MERITLESS REBUTTAL.

PG&E's rebuttal testimony asserts, *"This [A4NR's] suggestion is outside the scope of this NDCTP."*¹⁰ PG&E disdains A4NR's recommendation, which focuses on the breadth of subject matter to be considered in the forthcoming site-specific Diablo Canyon decommissioning plan, as *"addressing current operational issues at Diablo Canyon."*¹¹ A4NR acknowledges that, if the site-specific study determined a pre-shutdown acceleration of spent fuel transfer to dry casks worthwhile, the resultant implementation of the study's recommendation would by definition take place during Diablo Canyon's operational life. But that reality is not a disqualifier for the Commission to encourage PG&E to fully evaluate a prospect that could generate decommissioning cost savings of \$65.6 million for each year such strategy shaved from the time required for post-shutdown wet storage.

PG&E's rebuttal testimony appears to prejudge the outcome of a consideration in the site-specific study of accelerated pre-shutdown transfers to dry storage, and dismisses it with a non sequitur: *"Further, any effort to accelerate transfer of spent fuel by early cask loading*

⁸ Exhibit 31, p. 4.

⁹ *Id.*

¹⁰ Exhibit 15, PG&E Rebuttal Testimony (Loren D. Sharp), p. 2-1, line 21.

¹¹ *Id.*, p. 2-4, line 13.

during operations would need additional funding through the General Rate Case since decommissioning trust funds cannot be used for funding operational activities.”¹² It is unclear from PG&E’s reasoning whether that means such assessment should be ruled out altogether, or is best deferred to the 2020 General Rate Case. The observation in PG&E’s rebuttal testimony that the Joint Proposal obligates PG&E to evaluate accelerated dry cask loading for the **post-shutdown** period strongly suggests that an assessment of the **pre-shutdown** period has been ruled out irrespective of potential decommissioning cost savings.

IV. DISCUSSION.

Cal. Pub. Util. Code §8327 requires that the Commission’s review of PG&E’s Diablo Canyon decommissioning cost estimates

ensure that the estimate takes account of the changes in the technology and regulation of decommissioning, the operating experience of each nuclear facility, and the ... review shall specifically include all cost estimates, the basis for the cost estimates, and all assumptions about the remaining useful life of the nuclear facilities.¹³

The July 15, 2016 Joint Scoping Memo and Ruling notes the effect of the Joint Proposal – which trailed PG&E’s 2015 NDCTP application by 123 days -- on the assumed remaining useful life of Diablo Canyon,¹⁴ and includes within scope “9. Other issues that may arise during discovery.”¹⁵ As indicated above, A4NR’s discovery efforts reveal the miniscule effect of the spent fuel claim

¹² *Id.*, p. 2-4, lines 13 – 17.

¹³ Cal. Pub. Util. Code §8327.

¹⁴ Joint Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge, July 15, 2016, p. 7: “The topic of possible relicensing of Diablo Canyon was resolved on June 21, 2016, when PG&E announced that it would not seek relicensing of the plant beyond its current operating authority.”

¹⁵ *Id.*

in PG&E's application (*"Since the 2012 NDCTP, PG&E has taken steps to accelerate its transfer of spent fuel from wet to dry storage during Diablo Canyon's operational period."*¹⁶), irrespective of potential decommissioning cost savings of \$65.6 million per year of wet storage avoided. With the Joint Scoping Memo and Ruling determination that the topic of Diablo Canyon's remaining useful life is resolved, the sufficiency of PG&E's "steps" during the operational period must surely take on greater significance – for careful study, at a minimum.

PG&E's application in this proceeding comes in the aftermath of considerable discussion in recent Commission decisions of spent fuel policy, specifically the need to explore the cost ramifications of wet vs. dry storage.

- D.14-12-082's Ordering Paragraph 11 required that PG&E's 2015 NDCTP

provide testimony to demonstrate (1) that ... [it is] in compliance with prior Commission decisions; and (2) ... [it has] conducted a comparison of annual cost impacts of retaining Spent Nuclear Fuel in wet versus dry storage for seven years and any longer timeframe assumed in the decommissioning cost estimate.

- D.14-12-082's Conclusion of Law 6 explained,

It is reasonable to assume for cost estimation purposes that some spent nuclear fuel assemblies will require 12 years of wet cooling. In the 2015 NDCTP, the Commission would benefit from each utility providing information comparing annual cost impacts of strategies to reduce wet cooling periods.

- D.14-12-082's narrative elaborated,

We are persuaded that the 12-year wet cooling period assumed and supported by the utilities, is allowed by their respective NRC licenses, and is reasonable for purposes of estimating triennial decommissioning costs in the 2012 NDCTP. Nonetheless, this is not a finding that what is suitable for high level cost estimation purposes, will necessarily be the appropriate determination of actual future operating decisions. The utilities should

¹⁶ Exhibit 4, PG&E Prepared Testimony (Loren D. Sharp), p. 3-8, lines 1 – 3.

be considering the regulatory and economic impacts of taking steps to transfer SNF to dry cask storage as soon as practicable.

Our acceptance of the 12-year assumption, also does not mean the Commission or the utilities lack interest in reasonable and permissible actions that may lead to SNF leaving the SNF pools earlier. However, due to federal pre-emption on safety and radiological matters at a nuclear facility, the state's interest is primarily an economic one. The record was insufficient to estimate comparable annual costs for wet versus dry storage, particularly post-shutdown when the wet pools are used for other decommissioning purposes.¹⁷

- D.14-08-032 Ordering Paragraph 29 (b) conditioned approval of certain Diablo Canyon capital expenditures related to spent fuel:

PG&E is directed [sic] file in its next General Rate Case a satisfactory plan to comply with California Energy Commission recommendations regarding the transfer of spent fuel to dry cask storage in its Assembly Bill 1632 Report. PG&E's forecast of \$26.1 million to construct the remaining five pads at the Independent Spent Fuel Storage Installation in 2014 is approved subject to and conditional on PG&E's compliance with this directive.¹⁸

- D.14-08-032's Conclusion of Law 31 explained,

This Commission has legal authority ... to condition approval of PG&E's cost recovery of \$26. 1 million to construct the remaining five pads at the ISFSI in 2014 upon PG&E's submittal of a plan to expedite the transfer of spent fuel to dry casks while maintaining compliance with NRC cask and pool spent fuel storage requirements.

PG&E's application and testimony in this proceeding reflect a less than robust commitment to seeking out, let alone achieving, decommissioning cost savings from the expedited transfer of spent fuel to dry storage. Despite slicing two years off the 12-year wet

¹⁷ D.14-12-082, p. 30.

¹⁸ The 2015 Integrated Energy Policy Report, adopted by the California Energy Commission on February 10, 2016 and subject to official notice by this Commission pursuant to Rule 13.9, found PG&E's submitted plan to be unsatisfactory: "The CPUC should not allow PG&E to recover from ratepayers the additional costs associated with its failure to expedite the movement of spent fuel from the pool to dry casks. In addition, PG&E should file annual reports with the CPUC and the Energy Commission on its efforts to comply with California regulators' directives in this area, and its estimate of the costs implications. These reports should contain the amount of spent fuel and the associated radiation in the spent fuel pool and an estimate of the incremental amount above the level desired by the Energy Commission and the CPUC." *Id.*, p. 186.

cooling assumption PG&E persuaded the Commission to adopt in D.14-12-082, the company's expert witness, Francis Seymore of TLG Services, Inc., admitted that *"PG&E has indeed given us a number that may be higher than the minimum"*¹⁹ compared to *"(t)he five years that most of our clients use."*²⁰ Under cross-examination, PG&E's primary witness on spent fuel storage at Diablo Canyon, Loren Sharp, recanted the company's ten-year wet storage assumption (*"We have been in conversations with vendors. We expect there -- there is a chance for some reduction, yes."*²¹)

TURN's witness, Bruce Lacy, accurately summarized the record left in this proceeding:

Q *And did PG&E meet its burden of proof with respect to the 10-year timeline for the transfer of spent fuel to dry storage?*

A *Well, again, my short answer is no. You know, it's certainly an improvement from 12 years in the prior study, and I was glad to see that movement, but you know, again, there are a large number of other utilities that are assuming a substantially shorter period of time.*

And from my technical background, my power plant operational background, it seems to me that there are options, and these are options that I was familiar with when I was at my old power plant, of things that you can do to make use of available technology or seek improvements in available technology as we're seeing to a degree at San Onofre, which is good, where you can shorten that timeframe. And now that requires some careful thought. I mean this isn't something that you just sort of slap together overnight.

*But as Mr. Seymore testified on Monday, you know, there's a \$65 million a year benefit to reducing the amount of time that fuel is in wet storage before it goes to dry storage. If we could reduce that by four years, it's \$260 million. That's a quarter of a billion dollars.*²²

¹⁹ Transcript (PG&E -- Francis W. Seymore), p. 74, lines 9 – 11.

²⁰ *Id.*, p. 74, lines 11 – 12.

²¹ Transcript (PG&E – Loren G. Sharp), p. 104, line 27 – p. 105, line 1.

²² Transcript (TURN – Bruce Lacy), p. 244, line 13 – p. 245, line 15.

V. CONCLUSION.

Based on this evidentiary record, A4NR believes that the Commission would be remiss if its decision in A.16-03-006 failed to communicate a clear expectation that PG&E's forthcoming site-specific decommissioning plan for Diablo Canyon fully evaluate the costs, benefits, and feasibility of a pre-shutdown acceleration of dry cask loading of spent nuclear fuel.

Respectfully submitted,

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Date: October 14, 2016

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